

Exh A

MAZIE SLATER KATZ & FREEMAN, LLC

COUNSELLORS AT LAW

103 Eisenhower Parkway

Roseland, NJ 07068

(973) 228-9898

Fax (973) 228-0303

www.mskf.net

David A. Mazie**

Adam M. Slater**

Eric D. Katz**

David M. Freeman

Writer's Direct Dial 973-228-0391

Counsel

Beth G. Baldinger*

Jennifer D. Pawlak*

Marco V. Capasso

Matthew R. Mendelsohn*

* Certified by the Supreme Court of
New Jersey as a Civil Trial Attorney

† Certified as a Civil Trial Specialist
by the National Board of
Trial Advocacy

* Member of N.J. & N.Y. Bars

May 1, 2008

VIA CERTIFIED AND REGULAR MAIL – RETURN RECEIPT REQUESTED

United Benefit Fund

75-13 Metropolitan Avenue

Middle Village, New York 11379

RE: North Jersey Brain & Spine Center v. United Benefit Fund
Docket No. BER-L-3241-08

Dear Sir/Madam:

Enclosed herewith is a Summons and Complaint with regard to the above matter. Please
be guided accordingly.

Very truly yours,

Matthew Mendelsohn/av
MATTHEW R. MENDELSON

MRM/av

Enclosures

HAEDK\Comp Neuro\United Benefit Fund\Metropolitan ltr encl summons complaint 5-1-08.doc

DEPUTY CLERKS OF THE SUPERIOR COURT

ATLANTIC COUNTY:

Lori Mooney, Clerk
Civil Division, Direct Filing
1201 Bacharach Blvd., First Fl.
Atlantic City, NJ 08401
LAWYER REFERRAL
(609) 345-3444
LEGAL SERVICES
(609) 348-4200

BERGEN COUNTY:

Kathleen A. Donovan, Clerk
119 Justice Center
10 Main Street
Hackensack, NJ 07601-7968
LAWYER REFERRAL
(201) 488-0044
LEGAL SERVICES
(201) 487-2166

BURLINGTON COUNTY:

Edward A. Kelly, Jr., Clerk
First Fl., Courts Facility
49 Rancocas Road
Mt. Holley, NJ 08060
LAWYER REFERRAL
(609) 261-4862
LEGAL SERVICES
(609) 261-1088

CAMDEN COUNTY:

Michael S. Keating, Clerk
First Fl., Hall of Records
501 Fifth Street
Camden, NJ 08103
LAWYER REFERRAL
(609) 364-4520
LEGAL SERVICES
(609) 364-2010

CAPE MAY COUNTY:

Angela F. Pulvino, Clerk
(Law Division Filings)
Box DN-209
Cape May Courthouse, NJ 08210
or
(General Equity Filings)
Box DN-209A
Cape May Courthouse, NJ 08210
LAWYER REFERRAL
(609) 463-0313
LEGAL SERVICES
(609) 465-3001

CUMBERLAND COUNTY:

John G. Nardelli, Clerk
Courthouse, Direct Filing
Broad & Fayette Streets
Bridgeton, NJ 08302
LAWYER REFERRAL
(609) 452-5291
LEGAL SERVICES
(609) 451-0003/935-8024

ESSEX COUNTY:

Patricia McGarry Drake, Clerk
236 Hall of Records
465 Dr. Martin Luther King, Jr. Blvd.
Newark, NJ 07102
LAWYER REFERRAL
(201) 533-1779
LEGAL SERVICES
(201) 624-4500

GLOUCESTER COUNTY:

Joseph H. Hoffman, Clerk
First Fl., Court House
1 North Broad Street, P.O. Box 129
Woodbury, NJ 08096
LAWYER REFERRAL
(609) 848-4589
LEGAL SERVICES
(609) 848-5360

HUDSON COUNTY:

Frank E. Rodgers, Clerk
Superior Court, Civil Records Dept.
Brennan Court House
583 Newark Avenue
Jersey City, NJ 07306
LAWYER REFERRAL
(201) 798-2727
LEGAL SERVICES
(201) 792-6363

HUNTERDON COUNTY:

Dorothy K. Tirpok, Clerk
Hall of Records
71 Main Street
Flemington, NJ 08822
LAWYER REFERRAL
(609) 788-6112
LEGAL SERVICES
(609) 782-7979

MERCER COUNTY:

Albert E. Driver, Jr., Clerk
P.O. Box 8068
209 South Broad Street
Trenton, NJ 08650
LAWYER REFERRAL
(609) 890-6200
LEGAL SERVICES
(609) 695-6249

MIDDLESEX COUNTY:

Herbert P. Lashomb, Clerk
Court House, East Wing
Lobby Floor/P.O. Box 2633
One Kennedy Square
New Brunswick, NJ 08903-2633
LAWYER REFERRAL
(908) 828-0053
LEGAL SERVICES
(908) 249-7600

MONMOUTH COUNTY:

Jane Clayton, Clerk
P.O. Box 1262
Court House, East Wing
Freehold, NJ 07728-1262
LAWYER REFERRAL
(908) 431-5544
LEGAL SERVICES
(908) 747-7400

MORRIS COUNTY:

Alfonse W. Scerbo, Clerk
CN-900
30 Schuyler Place
Morristown, NJ 07960
LAWYER REFERRAL
(201) 267-5882
LEGAL SERVICES
(201) 285-6911

OCEAN COUNTY:

M. Dean Haines, Clerk
119 Court House
CN-2191
Toms River, NJ 08754
LAWYER REFERRAL
(908) 240-3666
LEGAL SERVICES
(908) 371-2727

SOMERSET COUNTY:

R. Peter Widin, Clerk
Civil/General Equity
New Court House, 3rd Floor
P.O. Box 3000
Somerville, NJ 08876
LAWYER REFERRAL
(908) 685-2323
LEGAL SERVICES
(908) 231-7400

SUSSEX COUNTY:

Helen C. Ackerman, Clerk
Superior Court, Law Division
49 High Street
Newton, NJ 07860
LAWYER REFERRAL
(201) 267-5882
LEGAL SERVICES
(201) 383-7400

UNION COUNTY:

Walter G. Halpin, Clerk
First Floor, Court House
Elizabeth, NJ 07207
LAWYER REFERRAL
(908) 353-4715
LEGAL SERVICES
(908) 354-4340

WARREN COUNTY:

Terrance D. Lee, Clerk
Court House
Belvidere, NJ 07823
LAWYER REFERRAL
(201) 267-5882
LEGAL SERVICES
(201) 475-2010

MAZIE SLATER KATZ & FREEMAN, LLC

103 Eisenhower Parkway
Roseland, New Jersey 07068
(973) 228-9898
Attorneys for Plaintiff

NORTH JERSEY BRAIN & SPINE
CENTER,

Plaintiff,

vs.

UNITED BENEFIT FUND,

Defendant.

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: BERGEN COUNTY
: DOCKET NO.: BER-L-3241-08

AFFIDAVIT OF DILIGENT INQUIRY

STATE OF NEW JERSEY)
) SS:
COUNTY OF ESSEX)

MATTHEW R. MENDELSON, of full age, hereby certifies as follows:

1. I am an attorney-at-law of the State of New Jersey and an associate with the law firm of Mazie Slater Katz & Freeman, attorneys for plaintiffs in the above-captioned matter. I am making this affidavit pursuant to R. 4:4-4(b)(1) to permit plaintiff to serve the Summons and Complaint in this action upon the defendant, United Benefit Fund, via regular mail and certified mail pursuant to the provisions of this rule.

2. Plaintiff filed the within action seeking damages against defendant for breach of contract and related claims.

3. Our research indicates that the defendant's address is 75-13 Metropolitan Avenue, Middle Village, New York 11379 and our research did not uncover a New Jersey address.

**CIVIL CASE INFORMATION STATEMENT
(CIS)**

Use for initial Law Division – Civil Part pleadings
(not motions) under Rule 4:5-1

Pleadings will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or if attorney's signature is not affixed.

FOR USE BY CLERK'S OFFICE ONLY

PAYMENT TYPE: CK CG CA

CHG/CK NO.

AMOUNT

OVERPAYMENT:

BATCH NUMBER:

ATTORNEY/PRO SE NAME
Eric D. Katz, Esq.TELEPHONE NUMBER
(973) 228-9898COUNTY OF VENUE
Bergen

FIRM NAME (IF APPLICABLE)

Mazie Slater Katz & Freeman, LLP

DOCKET NUMBER (when available)

L-3241-08

OFFICE ADDRESS

103 Eisenhower Parkway
Roseland, New Jersey 07068DOCUMENT TYPE
Complaint

JURY DEMAND

☒ Yes ☐ No

NAME OF PARTY (e.g. John Doe, Plaintiff)

North Jersey Brain & Spine Center

CAPTION

North Jersey Brain & Spine Center v. United Benefit Fund

CASE TYPE (see reverse side for listing)

502

IS THIS A PROFESSIONAL MALPRACTICE CASE?

☐ Yes ☒ No

IF YOU HAVE CHECKED "YES", SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.

IF YES, LIST DOCKET NUMBERS

RELATED CASE PENDING

☐ Yes ☒ NoDO YOU ANTICIPATE ADDING ANY PARTIES
(arising out of same transaction or occurrence)?☐ Yes ☒ No

NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN

☐ None ☐ Unknown**THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.****CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION**A. DO PARTIES HAVE A CURRENT, PAST
OR RECURRENT RELATIONSHIP?☒ Yes ☐ No

IF YES, IS THAT RELATIONSHIP

☐ EMPLOYER-EMPLOYEE
(explain)☐ FRIEND/NEIGHBOR☐ OTHER☐ FAMILIAL☒ BUSINESSB. DOES THE STATUTE GOVERNING THIS CASE
PROVIDE FOR PAYMENT OF FEES BY THE
LOSING PARTY?☐ Yes ☒ No

USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION:

DO YOU OR YOUR CLIENT HAVE ANY NEEDS
UNDER THE AMERICANS WITH DISABILITIES
ACT?☐ Yes ☒ NoIF YES, PLEASE IDENTIFY THE REQUESTED
ACCOMMODATION:

WILL AN INTERPRETER BE NEEDED?

☐ Yes ☒ No

IF YES, FOR WHAT LANGUAGE:

ATTORNEY SIGNATURE

SIDE 2

CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

CASE TYPES: (Choose one and enter number of case type in appropriate space on the reverse side.)**Track I – 150 days' discovery**

- 151 Name Change
- 175 Forfeiture
- 302 Tenancy
- 399 Real Property (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 Book Account
- 505 Other Insurance Claim (including Declaratory Judgment Actions)
- 506 PIP Coverage
- 510 UM or UIM Claim
- 511 Action on Negotiable Instrument
- 512 Lemon Law
- 801 Summary Action
- 802 Open Public Records Act (Summary Action)
- 999 OTHER (Briefly describe nature of action)

TRACK II – 300 days' discovery

- 305 Construction
- 509 Employment (other than CEPA or LAD)
- 599 Contract/Commercial Transaction
- 603 Auto Negligence - Personal Injury
- 605 Personal Injury
- 610 Auto Negligence – Property Damage
- 699 Tort – Other

TRACK III – 450 days' discovery

- 005 Civil Rights
- 301 Condemnation
- 602 Assault and Battery
- 604 Medical Malpractice
- 606 Product Liability
- 607 Professional Malpractice
- 608 Toxic Tort
- 609 Defamation
- 616 Whistleblower/Conscientious Employee Protection Act (CEPA) Cases
- 617 Inverse Condemnation
- 618 Law Against Discrimination (LAD) Cases

TRACK IV – Active Case Management by Individual Judge/450 days' discovery

- 156 Environmental Coverage Litigation
- 303 Mt. Laurel
- 508 Complex Commercial
- 513 Complex Construction
- 514 Insurance Fraud
- 701 Actions in Lieu Prerogative Writ

Mass Tort (Track IV)

- | | |
|---------------------------------------|-----------------------|
| 241 TOBACCO | 275 ORTHO EVRA |
| 248 CIBA GEIGY | 276 DEPO-PROVERA |
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 277 MAHWAH TOXIC DUMP |
| 271 ACCUTANE | 278 ZOMETA/AREIDIA |
| 272 BEXTRA/CELEBREX | 601 ASBESTOS |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 619 VIOXX |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics".

Please check off each applicable category: ☐ Verbal Threshold ☐ Putative Class Action ☐ Title 59

Effective: 02/01/2008, CN: 10517-English

BETWEEN (Case 2:08-cv-02648-FSH-PS Document 1-1 Filed 05/29/08 Page 8 of 19 PageID: 11)
SUPERIOR COURT LAW DIV
BERGEN COUNTY JUSTICE CTR RM 415
HACKENSACK NJ 07601-7460

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (201) 527-2600
COURT HOURS

DATE: APRIL 29, 2008
RE: NORTH JERSEY BRAIN & SPINE CTR VS UNITED BENEFIT
DOCKET: BER L -003241 00

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 1.

DISCOVERY IS 150 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON JOHN J. LANGAN

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 004
AT: (201) 527-2600.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADINGS.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH 5:41B-2.

ATTENTION:

ATTN: ERIC G. KOE
NARIE SLATER KATZ & FUCHMAN
100 EISENHOWER PARKWAY
ROSELAND NJ 07068

JJB01

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

/s/Theodore J. Fetter

THEODORE J. FETTER
Clerk of the Superior Court

Dated: May 1, 2008

Name of Defendant to be Served: United Benefit Fund
Address of Defendant to be Served: 75-13 Metropolitan Avenue
Middle Village, New York 11379

**SUPERIOR COURT BERGEN COUNTY
FILED**

APR 29 2008


DEPUTY CLERK

MAZIE SLATER KATZ & FREEMAN, LLC
103 Eisenhower Parkway
Roseland, New Jersey 07068
(973) 228-9898
Attorneys for Plaintiff

**NORTH JERSEY BRAIN & SPINE
CENTER,**

Plaintiff,

vs.

UNITED BENEFIT FUND,

Defendant.

: **SUPERIOR COURT OF NEW JERSEY**
: **LAW DIVISION: BERGEN COUNTY**
: **DOCKET NO.: BER-L- 3241-08**

: **COMPLAINT AND**
: **JURY DEMAND**

Plaintiff, North Jersey Brain & Spine Center ("NJBSC"), by way of Complaint,
alleges as follows:

THE PARTIES

1. Plaintiff, NJBSC is a neurosurgical medical practice specializing in the treatment of the brain and spinal cord and having its main office located at 20 Prospect Avenue, Hackensack, New Jersey 07601. At all relevant times, the plaintiff was (and is) an "out-of-network" medical practice that provided various medical services to subscribers and/or their dependants enrolled in the healthcare plans operated, controlled and/or administered by the defendant.

2. Defendant, United Benefit Fund ("Fund") maintains its corporate offices at 75-13 Metropolitan Avenue, Middle Village, New York 11379.

SUBSTANTIVE ALLEGATIONS

1. Fund operates, controls and/or administers managed healthcare or related insurance plans and claims submitted by its subscribers and/or their dependents. At all relevant times, Fund provided the following subscribers/dependents, and others that will be identified in the course of litigation, with "out-of-network" benefits, enabling these individuals to gain access to the physicians (providers) of their choice, rather than limiting access only to "in-plan" physicians as would be true with a health maintenance organization plan:

PATIENT INITIALS	DATES OF SERVICE
F.H.	10/19/07

2. On or about December 17, 2007, defendant's insured, patient F.H. was admitted to the emergency room at Hackensack University Medical Center with a history of metastatic lung cancer. The patient was unable to ambulate. A consult was performed and it was determined that the patient's cancer had spread to his thoracic spine. On December 19, 2007, NJBSC's surgeon performed medically necessary and successful spinal decompression, laminectomy and other services on F.H., to reduce the patient's significant spinal cord compression that had resulted from the patient's neurological deficit progression.

3. Pursuant to New Jersey statutory and administrative regulations, defendant Fund was obligated to pay NJBSC 100% of plaintiff's billed usual, customary and reasonable ("UCR") fees, less the patient's co-pay, co-insurance or deductible, if any. Moreover, defendant Fund was required to make payment to plaintiff within 40 calendar days of receipt of plaintiff's bill. Contrary to these statutory and administrative code

provisions, however, Fund has not paid anything for the surgical services rendered and plaintiff's bill remains outstanding.

4. It cannot be reasonably disputed that all of the surgical procedures performed were "medically necessary" and were emergency procedures.

5. The UCR fee, often referred to as the "reasonable and customary" fee, is defined, or is reasonably interpreted to mean, the amount that "out-of-network" providers, like the plaintiff, normally charge to their patients in the free market, i.e., without an agreement with an insurance company or other payor to reduce such a charge in exchange for obtaining access to the insurance company's or Fund's subscribers. Moreover, the UCR fee means the usual charge for a particular service by providers in the same geographic area with similar training and experience.

6. With respect to the services at issue rendered to the subscribers/dependents, defendant arbitrarily refused to pay the plaintiff for such services. In fact, after being contacted about these claims which were never paid, defendant has still refused to process and pay said claims.

7. By and through this lawsuit, NJBSC now seeks damages, due to defendant's actions.

8. The claims in this lawsuit do not arise under ERISA, do not arise from an assignment of benefits and do not arise under any purported federal common law or doctrine. All of the subject claims arise from New Jersey state common and statutory law.

FIRST COUNT
(Unjust Enrichment)

1. Plaintiff repeats and realleges each and every allegation set forth above as if set forth in full herein.

2. At all relevant times, defendant consistently and systematically refused to pay plaintiff for the medical services it provided to the subscribers/dependents, contrary to its insurance coverage, statutory and regulatory obligations.

3. The defendant was paid premiums by its subscribers for out-of-network benefits and, pursuant to said premiums, was legally obligated to provide such coverage to its subscribers. In order to satisfy its coverage obligations to its subscribers, defendant, by necessity, required the services of NJBSC, to render medical services. Plaintiff did, in fact, render surgical services to defendant's subscribers.

4. The defendant has therefore received a benefit as a result of plaintiff's rendering of medical services that remain unpaid. Thus, Fund has been unjustly enriched through the use of funds that earned interest or otherwise added to its profits when said money should have been paid in a timely and appropriate manner to the plaintiff.

5. As a result of the defendant's unjust enrichment, NJBSC has suffered damages.

WHEREFORE, plaintiff demands judgment against defendant for:

- a) Compensatory damages;
- b) Interest;
- b) Costs of suit;
- c) Punitive Damages;
- d) Attorney's fees; and
- d) Such other relief as the Court deems equitable and just.

SECOND COUNT

**(Violations of New Jersey Regulations Governing Payment
for Emergency Services Rendered By Non-Participating Providers)**

1. Plaintiff repeats and realleges each and every allegation set forth above as if set forth in full herein.

2. Pursuant to N.J.A.C. 11:22-5.6(b), 11:24-5.3(b), 11:24-5.1(a), and 11:24-9.1(d), defendant was obligated to pay NJBSC 100% of plaintiff's usual, customary and reasonable ("UCR") fees, less the patient's copay, co-insurance or deductible.

3. Contrary to New Jersey administrative code provisions, however, defendant Fund has not paid for the surgical services rendered and plaintiff's bill remains outstanding.

4. As a result of the defendant's intentional and blatant violations of the subject administrative codes, plaintiff has been damaged. Plaintiff has a private right of action, express or implied, to prosecute its claim under these regulations.

WHEREFORE, plaintiff demands judgment against defendant for:

- a) Compensatory damages;
- b) Interest;
- e) Costs of suit;
- f) Punitive Damages;
- d) Attorney's fees; and
- e) Such other relief as the Court deems equitable and just

THIRD COUNT
(Violations of the HINT Act and HCAPPA)

1. Plaintiff repeats and realleges each and every allegation set forth above as if set forth in full herein.

2. Pursuant to N.J.S.A. 17B:30-23, 17:48-8.4, 17:48A-7.12, 17:48E-10.1, 17B:26-9.1, 17B:27-44.2 and 26:2J-8.1 (the relevant portions of what is commonly referred to as the Healthcare Information Networks and Technologies ("HINT") Act), and the corresponding administrative code sections codified at N.J.A.C. 11:22-1 et seq., defendant is required to remit payment to a healthcare provider for an "eligible" non-capitated claim for medical services no later than thirty (30) calendar days following electronic receipt of the claim by defendant or, if not submitted electronically, not later than forty (40) calendar days following receipt. In the alternative, defendant is required to notify the provider within the same time frames of the specific reasons for a denial or dispute and to expeditiously request any missing information or documentation required to process the claims. (This provision of the HINT Act was amended effective July 11, 2006 as to electronic claims and reduced to seven (7) calendar days pursuant to the Health Claims Authorization, Processing and Payment Act ("HCAPPA")). The failure to do so constitutes an unequivocal waiver of defendant's right to contest such claims for any reason other than fraud. All overdue payments must bear simple interest at the rate of ten (10) percent per annum. (This interest rate increased to twelve (12) percent per annum effective July 11, 2006 pursuant to the Health Claims Authorization, Processing and Payment Act HCAPPA).

3. Despite its statutory duties, defendant as a matter of its own pattern and practice, delayed payment of properly submitted claims from the plaintiff and did not pay

them at all, and then did not pay interest on the delayed payments. The defendant benefits by this practice. By delaying payment of a claim, defendant earns profits from its use of the funds, profits that it would not earn if payment were made in a timely manner.

4. NJBSC has submitted "clean" or "eligible" non-capitated claims which defendant has failed to pay within the prescribed statutory time period despite numerous attempts by plaintiff to address and resolve these issues with defendant. These practices by defendant are in violation of the HINT Act and HCAPPA.

5. The foregoing acts or omissions by defendant, in violation of the HINT Act and HCAPPA, were intentional and accompanied by a wanton and willful disregard of the rights of plaintiff. These acts or omissions include, but are not limited to, defendant's: (i) delay or denial of payment of properly submitted claims; (ii) failure to pay interest on the delayed payments; (iii) failure to notify plaintiff of the reasons for non-payment of claims; (iv) offering of evasive or incomplete explanations to plaintiff regarding the status of outstanding claims; and (v) failure to timely notify plaintiff of the specific reasons for a claim dispute or denial. The defendant has engaged in such conduct with knowledge that there was a high degree of probability of harm by these acts or omissions because of its understanding that the plaintiff is simply too occupied with the practice of medicine and the care of its patients to be inconvenienced with never ending follow-up communications with defendant on outstanding, unpaid or inappropriately paid claims. The defendant's conduct in this regard demonstrates a reckless indifference to the consequences of its acts or omissions.

6. As a result of defendant's violations of the HINT Act and HCAPPA, NJBSC has been damaged. Plaintiff has a private right of action, express or implied, to prosecute its claims under the statutes and regulations.

WHEREFORE, plaintiff demands judgment against defendant for:

- (a) Compensatory damages and interest for payment of the medical services provided which remain unpaid, are delayed or reduced as a result of the improper claims processing tactics utilized by the defendant;
- (b) Costs of suit;
- (c) Punitive Damages;
- (d) Attorney's fees; and
- (e) Such other relief as the Court deems equitable and just.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

MAZIE SLATER KATZ & FREEMAN, LLC
Attorneys for Plaintiff

DATED: April 28, 2008

By: 

MATTHEW R. MENDELSON

DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Eric D. Katz, Esq. as trial counsel in the above matter.

MAZIE SLATER KATZ & FREEMAN, LLC
Attorneys for Plaintiff

DATED: April 28, 2008

By: 

MATTHEW R. MENDELSON

CERTIFICATION PURSUANT TO RULE 4:5-1(b) 2

MATTHEW R. MENDELSON, of full age, hereby certifies that:

1. I am an associate with the law firm of Mazie Slater Katz & Freeman, LLC, attorneys for plaintiff in this action.

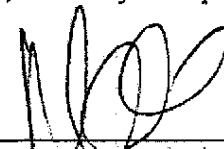
2. To the best of my knowledge, the matter in controversy is not the subject of any other action pending in any Court or any pending arbitration proceeding.

3. No other actions or arbitration proceedings are contemplated by this plaintiff against the defendant at this time.

4. I know of no other parties that should be joined in this action at this time.

I certify that the foregoing statements made by me are true. I am aware that if the foregoing statements made by me are willfully false, I am subject to punishment.

DATED: April 28, 2008



MATTHEW R. MENDELSON